IN THE HIGH COURT OF JUDICATURE AT BOMBAY
C.A.J.
WRIT PETITION NO. 1070 OF 1999

Bharat Petroleum Corpn. Ltd. ... Petitioners

Versus

Chief Controlling Revenue Authority
and Ors. ... Respondents

Mr. E.P. Bharucha with Ms. S. John i/by M.P. Savla & Co. for Petitioners.

Mr. N.P. Deshpande, A.G.P. for State.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : MAY 05, 2005

P.C.

1. Aggrieved by the decision of the respondent No. 1, in not referring the matter to this court, Petitioners have filed the present Petition.

2. We have herd learned counsel for the parties. We have also perused the provisions of the Act. In order to attract Stamp duty, what is relevant is that it must be conveyance within the meaning as set out under the provisions of the Bombay Stamp Act. That requires examination of the documents. On behalf of the Petitioner, learned counsel points out after taking instructions that subsequent to MOU no sale deed in respect of the premiss has been entered into.

3. Considering the above, in our opinion, respondent No. 1 is directed to refer the following questions of law to this court :

(1) Whether the Memorandum of Understanding dated 20 November, 1993 (being Exh. C to the Petition) is a Conveyance within the meaning of Section 21(g) read with Article 25 of the Schedule to the Bombay Stamp Act as it stood at the relevant time?

(2) Whether the valuation of the property by the Collector is correct in view of the fact that the Petitioners were already occupying the entire plot as lessees prior to the entering of the Memo of Understanding.

(3) Whether the Collector was justified in imposing the penalty ?

4. Before we finally dispose of the petition, our attention has been invited to section 54(2) which reads as under :

"Every such case shall be decided by not less than three Judges of the High Court and in case of difference, opinion of majority shall prevail."

. The consequence of this sub section is that the matters are not disposed of considering the constitution of the Benches. Even otherwise, the matter pertains to the issue which can be decided either by Single Judge or at the highest by the Division Bench. Considering that the Respondent

State may consider suitable amendments to Section 54(2) so that the matters pertaining to revenue can be heard by a Single Judge or Division Bench of this court and disposed of as early as possible. The learned A.G.P. to forward the copy of this order to the Chief Secretary to State of Maharashtra as also forward a copy of this order to the Learned Advocate General.

. In the light of what is stated in Paragraph 3, respondent No. 1 is directed to make reference to this court in terms of the substantial questions of law as formulated in Paragraph No. 3 of this Judgement.

. In this Petition, pursuant to order dated 10.6.1999, the Petitioners were called upon to deposit sum of Rs.36,92,000/-. That amount has been deposited. That amount to continue to remain deposited and will be subject to the order to be passed in reference by this Court.

. Petition disposed of. No order as to costs.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)